

The Honorable Richard A. Jones

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, *et al.*, on behalf of
himself and other similarly situated,

Plaintiffs,

v.

DONALD TRUMP, President of the United
States, *et al.*,

Defendants.

CASE NO. 2:17-cv-00094-RAJ

**DECLARATION OF VICTORIA M.
BRAGA RE: DEFENDANTS'
RESPONSE TO PLAINTIFFS'
SUPPLEMENTAL BRIEF RE:
OUTSTANDING DISCOVERY
DISPUTES**

I, Victoria M. Braga, hereby declare:

1. I am one of the attorneys representing Defendants in the above-captioned matter, *Wagafe v. Trump*, No. 2:17-cv-00094-RAJ. I have personal knowledge of the facts stated below and am competent to testify regarding the same.

2. Following a telephone conference with the parties on May 14, 2020, the Court struck four pending discovery motions, including Plaintiffs' motions seeking to compel lesser-redacted versions of the Named Plaintiffs' A Files and lesser-redacted versions of 41 documents produced in discovery. *See* Dkt. No. 355 (striking, *inter alia*, Dkt. Nos. 312, 316). The Court directed the parties to negotiate in an attempt to resolve these and other outstanding discovery disputes.

3. The parties have met and conferred extensively in an effort to resolve Plaintiffs' A Files and documents motions. As a part of this process, Plaintiffs' counsel sent Defendants' counsel PDF versions of the A Files and documents including comments on specific pages challenging

specific redactions. Defendants' counsel then prepared spreadsheets for Plaintiffs' counsel describing, for each challenged redaction, the withheld content. A File redactions are identified in the spreadsheets by Bates number as well as by A File PDF page number. Document redactions are identified in the spreadsheets by a document's beginning Bates number and the PDF page number on which the challenged redaction appears. In addition to these redaction descriptions, where possible, Defendants lifted redactions and sent Plaintiffs' counsel the updated pages. The spreadsheets also indicate where Defendants made changes to redactions and sent Plaintiffs' counsel updated pages. Plaintiffs' counsel and Defendants' counsel also participated in four telephonic meet and confers regarding the challenged redactions in the A Files and documents.

4. The meet and confer process described above did not satisfy Plaintiffs' counsel that the A Files and documents are properly redacted. On June 26, 2020, Plaintiffs requested to file a supplemental brief with the Court concerning unresolved issues. Dkt. No. 372. The Court granted this request, permitting Plaintiffs to file a supplemental brief and Defendants to respond. On July 10, Plaintiffs filed a brief challenging Defendants A File redactions, generally, as well as redactions on specific pages in 31 documents. *See* Dkt. No. 379, Whidbee Decl., ¶ 4.

5. Defendants' response to Plaintiffs' supplemental brief includes Exhibits A through S. All exhibits, except for Exhibit B, will be filed under seal.

6. Attached as **Exhibit A** is a true and correct copy of the Affidavit of Andrew J. Davidson, which was provided to Plaintiffs' counsel on August 10, 2019.

7. Attached as **Exhibit B** is a true and correct copy of a memorandum from Jonathan R. Scharfen, Deputy Director, U.S. Citizenship & Immigration Services, *Policy for Vetting and Adjudicating Cases with National Security Concerns*. April 11, 2008. This document is included in Certified Administrative Record, filed with the Court on October 11, 2019, at CAR000001-CAR000007. *See* Dkt. 286.

8. Attached as **Exhibit C** is a data chart sent to Plaintiffs' counsel on June 12, 2020.

9. Attached as **Exhibit D** is a true and correct copy of a spreadsheet I sent to Plaintiffs' counsel on June 5, 2020 describing the content under challenged redactions in the A File of one of the Named Plaintiffs. I e-mailed the spreadsheet to Plaintiffs' counsel in Excel format. For the purposes of filing, I converted the spreadsheet to PDF format. I made formatting changes to some of

1 the cells so that all information accessible to Plaintiffs' counsel in the electronic document is visible
2 in the filed PDF.

3 10. Attached as **Exhibit E** is a true and correct copy of two spreadsheets I sent to
4 Plaintiffs' counsel, on June 15, 2020 and June 19, 2020, respectively, describing the content under
5 challenged redactions in the A File of one of the Named Plaintiffs. Pages 1-3 of the exhibit is a true
6 and correct copy of the spreadsheet sent on June 15, 2020, and pages 4-5 of the exhibit is a true and
7 correct copy of the spreadsheet sent on June 19, 2020. I e-mailed the spreadsheets to Plaintiffs'
8 counsel in Excel format.. For the purposes of filing, I converted the spreadsheets to PDF format. I
9 made formatting changes to some of the cells so that all information accessible to Plaintiffs' counsel
10 in the electronic documents is visible in the filed PDFs.

11 11. Attached as **Exhibit F** is a true and correct copy of a spreadsheet I sent to Plaintiffs'
12 counsel on June 8, 2020 describing the content under challenged redactions in the A File of one of
13 the Named Plaintiffs. I e-mailed the spreadsheet to Plaintiffs' counsel in Excel format. For the
14 purposes of filing, I converted the spreadsheet to PDF format. I made formatting changes to some of
15 the cells so that all information accessible to Plaintiffs' counsel in the electronic document is visible
16 in the filed PDF.

17 12. Attached as **Exhibit G** is a true and correct copy of a spreadsheet I sent to Plaintiffs'
18 counsel on June 9, 2020 describing the content under challenged redactions in the A File of one of
19 the Named Plaintiffs. I e-mailed the spreadsheet to Plaintiffs' counsel in Excel format.. For the
20 purposes of filing, I converted the spreadsheet to PDF format. I made formatting changes to some of
21 the cells so that all information accessible to Plaintiffs' counsel in the electronic document is visible
22 in the filed PDF.

23 13. Attached as **Exhibit H** is a true and correct copy of a spreadsheet I sent to Plaintiffs'
24 counsel on June 11, 2020 describing the content under challenged redactions in the A File of one of
25 the Named Plaintiffs. I e-mailed the spreadsheet to Plaintiffs' counsel in Excel format. For the
26 purposes of filing, I converted the spreadsheet to PDF format. I made formatting changes to some of
27 the cells so that all information accessible to Plaintiffs' counsel in the electronic document is visible
28 in the filed PDF.

1 14. Attached as **Exhibit I** is a true and correct copy of a spreadsheet I sent to Plaintiffs'
 2 counsel on June 9, 2020 describing the content under challenged redactions in the Supplemental File
 3 of one of the Named Plaintiffs. I e-mailed the spreadsheet to Plaintiffs' counsel in Excel format.
 4 For the purposes of filing, I converted the spreadsheet to PDF format. I made formatting changes to
 5 some of the cells so that all information accessible to Plaintiffs' counsel in the electronic document
 6 is visible in the filed PDF.

7 15. Attached as **Exhibit J** is a true and correct copy of an excerpt from the transcript of
 8 the deposition of Christopher Heffron, taken by Plaintiffs' counsel on December 12, 2019.

9 16. Attached as **Exhibit K** is a true and correct copy of excerpts from the transcript of the
 10 deposition of Daniel Renaud, taken by Plaintiffs' counsel on January 10, 2020.

11 17. Attached as **Exhibit L** are true and correct copies of e-mails I exchanged with
 12 Plaintiffs' counsel on June 23, 2020 and June 24, 2020 concerning certain content in the A Files.

13 18. Attached as **Exhibit M** is a true and correct copy of a page from one of the Named
 14 Plaintiffs' A Files, which I sent to Plaintiffs' counsel on June 11, 2020 in a form lesser-redacted than
 15 the copy of the page they submitted with their supplemental brief on July 10, 2020. *See* Pls' Supp.
 Br. at 7 (discussing Pls' Ex. X).

16 19. Attached as **Exhibit N** is a true and correct copy of the Declaration of Jill A.
 17 Eggleston.

18 20. Attached as **Exhibit O** is a true and correct copy of a data chart sent to Plaintiffs'
 19 counsel on November 29, 2019.

20 21. Attached as **Exhibit P** is a true and correct copy of a document produced to
 21 Plaintiffs' counsel on October 10, 2018. The document was entered as an exhibit by Plaintiffs'
 22 counsel during their deposition of Christopher Heffron on December 12, 2019.

23 22. Attached as **Exhibit Q** are true and correct copies of seven spreadsheets I sent to
 24 Plaintiffs' counsel on June 5, 2020, June 12, 2020, June 17, 2020, June 23, 2020, June 26, 2020,
 25 June 29, 2020, and June 30 2020, respectively, describing the content under challenged redactions in
 26 the documents at issue. Pages 1-8 of the exhibit is a true and correct copy of the spreadsheet sent on
 27 June 5, 2020, and pages 9-11 of the exhibit ia a true and correct copy of the spreadsheet sent on June
 28 12, 2020, pages 12-13 of the exhibit is a true and correct copy of the spreadsheet sent on June 17,

2020, pages 14-17 is a true and correct copy of the spreadsheet sent on June 23, 2020, pages 18-19 is a true and correct copy of the spreadsheet sent on June 26, 2020, pages 20-21 is a true and correct copy of the spreadsheet sent on June 29, 2020, and page 22 is a true and correct copy of the spreadsheet sent on June 30, 2020. I e-mailed the spreadsheets to Plaintiffs' counsel in Excel format. For the purposes of filing, I converted the spreadsheets to PDF format. I made formatting changes to some of the cells so that all information accessible to Plaintiffs' counsel in the electronic documents is visible in the filed PDFs.

23. Attached as **Exhibit R** is a letter Defendants' counsel sent to Plaintiffs' counsel on September 27, 2019.

24. Attached as **Exhibit S** is an e-mail exchange between Defendants' counsel and Plaintiffs' counsel between July 13, 2020 and July 15, 2020 regarding Plaintiffs' July 10, 2020 filing.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 17th day of July 2020, at Washington, D.C.

s/ Victoria M. Braga
VICTORIA M. BRAGA

CERTIFICATE OF SERVICE

I hereby certify that on July 17, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Victoria M. Braga
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EXHIBITS A, C-S

FILED UNDER SEAL